

By: Canales, White, Lucio III, Leach, Murr

H.B. No. 351

A BILL TO BE ENTITLED

AN ACT

relating to the discharge or waiver of fines and costs imposed on indigent defendants; authorizing a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 42.15(b), Code of Criminal Procedure, is amended to read as follows:

(b) Subject to Subsections (c) and (d) and Article 43.09(f), when imposing a fine and costs, a court may direct a defendant:

(1) to pay the entire fine and costs when sentence is pronounced;

(2) to pay the entire fine and costs at some later date; or

(3) to pay a specified portion of the fine and costs at designated intervals.

SECTION 2. Article 43.09, Code of Criminal Procedure, is amended by amending Subsections (f) and (g) and adding Subsections (g-1) and (g-2) to read as follows:

(f) At sentencing or at any time after sentencing, a [A] court may require a defendant who is unable to pay a fine or costs to discharge all or part of the fine or costs by performing community service.

(g) In its order requiring a defendant to perform [~~participate in~~] community service [~~work~~] under Subsection (f) [~~of this article~~], the court must specify:

1 (1) the number of hours the defendant is required to
2 work; ~~and~~

3 (2) the date by which the community service must be
4 completed; and

5 (3) whether the community supervision and corrections
6 department or a court-related services office will perform the
7 administrative duties required by the placement of the defendant in
8 the community service program.

9 (g-1) The court may order a defendant required to perform
10 community service under Subsection (f) to pay a reasonable
11 administrative fee for the administration and supervision of the
12 defendant's community service.

13 (g-2) If the defendant fails to complete community service
14 required under this article by the date specified under Subsection
15 (g)(2), the amount of the fine or costs that remains unpaid on that
16 date is automatically reinstated and due.

17 SECTION 3. Article 43.091, Code of Criminal Procedure, is
18 amended to read as follows:

19 Art. 43.091. WAIVER OF PAYMENT OF FINES AND COSTS FOR
20 INDIGENT DEFENDANTS AND CHILDREN. A court may waive payment of a
21 fine or cost imposed on a defendant ~~[who defaults in payment]~~ if the
22 court determines that:

23 (1) the defendant is indigent or was, at the time the
24 offense was committed, a child as defined by Article 45.058(h); and

25 (2) each alternative method of discharging the fine or
26 cost under Article 43.09 or 42.15 would impose an undue hardship on
27 the defendant.

1 SECTION 4. Article 45.041, Code of Criminal Procedure, is
2 amended by amending Subsection (b) and adding Subsection (b-2a) to
3 read as follows:

4 (b) Subject to Subsections (b-2), (b-2a), and (b-3), the
5 justice or judge may direct the defendant:

6 (1) to pay:

7 (A) the entire fine and costs when sentence is
8 pronounced;

9 (B) the entire fine and costs at some later date;

10 or

11 (C) a specified portion of the fine and costs at
12 designated intervals;

13 (2) if applicable, to make restitution to any victim
14 of the offense; and

15 (3) to satisfy any other sanction authorized by law.

16 (b-2a) If in imposing a fine and costs the justice or judge
17 determines that the defendant has insufficient resources or income
18 to pay the fine or costs, the justice or judge may require the
19 defendant to discharge all or part of the fine or costs by
20 performing community service as provided by Article 45.049.

21 SECTION 5. Article 45.049, Code of Criminal Procedure, is
22 amended by amending Subsection (b) and adding Subsections (b-1) and
23 (b-2) to read as follows:

24 (b) In the justice's or judge's order requiring a defendant
25 to perform [~~participate in~~] community service [~~work~~] under this
26 article, the justice or judge must specify the number of hours the
27 defendant is required to work and the date by which the community

1 service must be completed.

2 (b-1) The justice or judge may order a defendant required to
3 perform community service under this article to pay a reasonable
4 administrative fee for the administration and supervision of the
5 defendant's community service.

6 (b-2) If the defendant fails to complete community service
7 required under this article by the date specified under Subsection
8 (b), the amount of the fine or costs that remains unpaid on that
9 date is automatically reinstated and due.

10 SECTION 6. Article 45.0491, Code of Criminal Procedure, is
11 amended to read as follows:

12 Art. 45.0491. WAIVER OF PAYMENT OF FINES AND COSTS FOR
13 INDIGENT DEFENDANTS AND CHILDREN. A municipal court, regardless
14 of whether the court is a court of record, or a justice court may
15 waive payment of a fine or costs imposed on a defendant [~~who~~
16 ~~defaults in payment~~] if the court determines that:

17 (1) the defendant is indigent or was, at the time the
18 offense was committed, a child 18 years or younger at the time of
19 the offense [~~as defined by Article 45.058(h)~~]; and

20 (2) discharging the fine and costs under Article
21 45.049 or as otherwise authorized by this chapter would impose an
22 undue hardship on the defendant.

23 SECTION 7. The changes in law made by this Act apply to a
24 sentencing proceeding that commences before, on, or after the
25 effective date of this Act.

26 SECTION 8. This Act takes effect September 1, 2017.